IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 11502 of 2004

Between:

V. Vittalaiah, s/o. Mohanaiah,
R/o. H.No. 5-21, Parigi (V) & (M), Ranga Reddy District.

... PETITIONER

AND

1 Gram Panchayat, rep by its Executive officer, Parigi (V) & (M), Rangareddy District.
2 Branch Library, rep by its Librarian, Parigi (V) & (M), Rangareddy District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not constructing the Mulgies in petitioner's land in Sy.No. 11 of the Parivi Village & Mandal of the extent of 300 sq. Yards out of which 60 Sy. Yds left for open road towards Eastern side of petitioner's house bearing No. 5-21 as illegal, arbitrary and unconstitutional and consequently direct the respondents not to take away the possession of the petitioner's land

without following the due process.

Counsel for the Petitioner: MR.NOMULASRIDHAR REDDY

Counsel for the Respondents: SMT.JYOTHI ESWAR GOGINENI for R-1

The Court made the following:

ORDER:

Petitioner claiming to be the owner and possessor of 300 Sq.Yards in S.No.11 of Parigi Village & Mandal, purchased under Registered Sale Deed bearing No.411/1978, filed the present writ petition stating that he initially purchased 240 Sq.Yards and subsequently purchased 60 Sq.Yards from the same vendor from the Southern side and made an application for according permission to construct house in 240 Sq.Yards, keeping 60 Sq.Yards towards the Eastern side as road. It is alleged by the petitioner that second respondent, without obtaining permission from the first respondent, is encroaching into his land and digging pits to install pillars, who has no title or possession over the same and that first respondent is keeping silent over the said construction. In view of the same, the present writ petition has been filed seeking Mandamus in constructing *Malgis* in the petitioner's land as illegal and not to take away the possession of the petitioner without following due procedure.

2. In response to the notice, first respondent filed counter stating that petitioner initially obtained permission for 240 Sq.Yards only measured as 8 Yards x 30 Yards in the year 1980, which was renewed in the year 1983. It is further stated that petitioner submitted the plan by showing the Eastern boundary as Library building. Again on 29-04-2004, he made an application for construction in the vacant place adjacent to his house by submitting the land agreement copy dated 10-05-1982, which was rejected by the first respondent. Meanwhile, it appears that second

respondent made a representation to the District Panchayat Officer with regard to the land encroachment made by the petitioner, on which the D.P.O. directed the Executive Officer of the Gram Panchayat to take appropriate action. It seems that it is a civil dispute and no action can be taken against the same. Having regard to the fact that petitioner is claiming right in the property by virtue of agreement entered by him with the second respondent and in the earlier plan submitted by him, he has shown the Eastern side as Library building and now proceeding with the construction in the open land, it is well settled that by mere impleading the official respondent, property dispute cannot be resolved in a summary manner under Article 226 of the Constitution of India (***See Mohan Pandey Vs. Smt. Usha Rani Rajgaria*** *)*

3. In view of the same, petitioner has to approach the competent Civil Court so as to substantiate his rights, if any, under the said agreement of sale dated 10-05-1982.

I see no grounds to entertain the writ petition and it is accordingly dismissed. No order as to costs.

_____

A. **GOPAL REDDY, J**

September 30, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 The Executive officer, Gram Panchayat, Parigi

(V) & (M),Rangareddy District.

2 Librarian, Branch Library, Parigi (V) & (M),
Rangareddy District.

3 Two C.D. Copies.